

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

JOHNNY FINLEY, )  
                    )  
Plaintiff,       )  
                    )  
v.                 )       CAUSE NO. 3:13-CV-1391-JTM-CAN  
                    )  
ZIMMER, INC., *et al.*, )  
                    )  
Defendants.       )

**REPORT AND RECOMMENDATION**

Because of Plaintiff's failure to comply with this Court's order to show cause dated December 3, 2014, the undersigned now recommends that this case be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

After granting Plaintiff's motion to withdraw the appearances of his attorneys on September 8, 2014, the Court ordered Plaintiff to file a status report by October 8, 2014, informing the Court as to whether he intended to continue prosecuting this action with or without representation. Plaintiff failed to comply with the Court's order. Nevertheless, the Court assumed that Plaintiff intended to proceed without representation and on October 23, 2014, ordered the parties to file separate status reports regarding case management issues by November 24, 2014. In this order, the Court advised Plaintiff that failure to comply with the order could result in dismissal under Fed. R. Civ. P. 41(b).

Plaintiff failed to comply with this second court order also. As a result, the Court issued an order to show cause on December 3, 2014, ordering Plaintiff to file a status report by December 19, 2014, explaining why this case should not be dismissed for Plaintiff's failure to prosecute his claim. The Court also advised Plaintiff that failure to comply with the order to show cause would cause the undersigned to recommend dismissal of this case under Fed. R. Civ.

P. 41(b). As of this date, Plaintiff has filed nothing in response to any of this Court's three orders since September 2014.

Under Fed. R. Civ. P. 41(b), a plaintiff's case may be dismissed for failure to prosecute his claim or to comply with court orders. Plaintiff has failed to comply with three of this Court's orders and has made no effort to prosecute his claim since his attorneys withdrew their appearances in September 2014. Without any written documentation explaining Plaintiff's inaction, this Court can only assume that Plaintiff has abandoned his case. Consequently, for the aforementioned reasons, the undersigned **RECOMMENDS** that Plaintiff's case be **DISMISSED WITHOUT PREJUDICE.**

**NOTICE IS HEREBY GIVEN that within fourteen (14) days after being served with a copy of this recommended disposition a party may serve and file specific, written objections to the proposed findings and/or recommendations. Fed. R. Civ. P. 72(b). FAILURE TO FILE OBJECTIONS WITHIN THE SPECIFIED TIME WAIVES THE RIGHT TO APPEAL THE DISTRICT COURT'S ORDER.**

**SO ORDERED.**

Dated this 6th day of January, 2015.

S/Christopher A. Nuechterlein  
Christopher A. Nuechterlein  
United States Magistrate Judge